

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

Victoria Gehl, individually and on
behalf of all others similarly situated,

Plaintiff,

vs.

Financial Assistance Inc. and John Does
1-25.

Defendant(s)

No.: _

CLASS ACTION COMPLAINT

DEMAND FOR JURY TRIAL

Plaintiff Victoria Gehl ("Plaintiff"), by and through her attorneys, Brubaker Law Group PLLC, as and for her Complaint against Defendants Financial Assistance, Inc. ("Defendant FAI"), individually and on behalf of a class of all others similarly situated, pursuant to Rule 23 of the Federal Rules of Civil Procedure, based upon information and belief of Plaintiff's counsel, except for allegations specifically pertaining to Plaintiff, which are based upon Plaintiff's personal knowledge.

INTRODUCTION/PRELIMINARY STATEMENT

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2 1. Congress enacted the Fair Debt Collection Practices Act (the
3 “FDCPA”) in 1977 in response to the “abundant evidence of the use of abusive,
4 deceptive, and unfair debt collection practices by many debt collectors.” 15
5 U.S.C. §1692(a). At that time, Congress was concerned that “abusive debt
6 collection practices contribute to the number of personal bankruptcies, to
7 material instability, to the loss of jobs, and to invasions of individual privacy.”
8 *Id.* Congress concluded that “existing laws...[we]re inadequate to protect
9 consumers,” and that ““the effective collection of debts’ does not require
10 ‘misrepresentation or other abusive debt collection practices.’” 15 U.S.C. §§
11 1692(b) & (c).

12 2. Congress explained that the purpose of the Act was not only to
13 eliminate abusive debt collection practices, but also to “insure that those debt
14 collectors who refrain from using abusive debt collection practices are not
15 competitively disadvantaged.” *Id.* § 1692(e). “After determining that the
16 existing consumer protection laws were inadequate.” *Id.* § 1692(b), Congress
17 gave consumers a private cause of action against debt collectors who fail to
18 comply with the Act. *Id.* § 1692k.

JURISDICTION AND VENUE

3. The Court has jurisdiction over this class action pursuant to 15 U.S.C. § 1692 et. seq. and 28 U.S.C. § 2201. The Court has pendent jurisdiction over the State law claims in this action pursuant to 28 U.S.C. § 1367(a).

4. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(2) as this is where the Plaintiff resides as well as where a substantial part of the events or omissions giving rise to this claim occurred.

NATURE OF THE ACTION

5. Plaintiff brings this class action on behalf of a class of Washington consumers under § 1692 et seq. of Title 15 of the United States Code, commonly referred to as the Fair Debt Collections Practices Act ("FDCPA"), and

6. Plaintiff is seeking damages and declaratory relief.

PARTIES

7. Plaintiff is a resident of the State of Washington, County of King, with an address of 8450 Delridge Way SW, Apt. 2C, Seattle, WA 98106.

8. Defendant FAI is a "debt collector" as the phrase is defined in 15 U.S.C. § 1692(a)(6) and used in the FDCPA with an address at 1130 140th Ave N.E. Suite 100A, Bellevue, WA 98005-2974.

9. John Does 1-25, are fictitious names of individuals and businesses alleged for the purpose of substituting names of Defendants whose identities will be disclosed in discovery and should be made parties to this action.

10. Plaintiff brings this claim on behalf of the following case, pursuant to Fed. R. Civ. P. 23(a) and 23(b)(3).

- a. all individuals with addresses in the State of Washington;
- b. to whom Defendant FAI sent an initial collection letter attempting to collect a consumer debt;
- c. that included threats that the Defendant may submit a negative credit bureau report, overshadowing the “g-notice”;
- d. and states that the creditor has certified the balance;
- e. which letter was sent on or after a date one (1) year prior to the filing of this action and on or before a date twenty-one (21) days after the filing of this action.

1 12. The identities of all class members are readily ascertainable from the
2 records of Defendants and those companies and entities on whose behalf they
3 attempt to collect and/or have purchased debts.
4

5 13. Excluded from the Plaintiff Class are the Defendants and all officer,
6 members, partners, managers, directors and employees of the Defendants and
7 their respective immediate families, and legal counsel for all parties to this
8 action, and all members of their immediate families.
9

10 14. There are questions of law and fact common to the Plaintiff Class,
11 which common issues predominate over any issues involving only individual
12 class members. The principal issue is whether the Defendants' written
13 communications to consumers, in the forms attached as Exhibit A, violate
14 U.S.C. §§ 1692e and 1692g.
15

16 15. The Plaintiff's claims are typical of the class members, as all are
17 based upon the same facts and legal theories. The Plaintiff will fairly and
18 adequately protect the interests of the Plaintiff Class defined in this complaint.
19 The Plaintiff has retained counsel with experience in handling consumer
20 lawsuits, complex legal issues, and class actions, and neither the Plaintiff nor
21 her attorneys have any interests, which might cause them not to vigorously
22 pursue this action.
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1 16. This action has been brought, and may properly be maintained, as a
 2 class action pursuant to the provisions of Rule 23 of the Federal Rules of Civil
 3 Procedure because there is a well-defined community interest in the litigation:
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- 5 a. **Numerosity:** The Plaintiff is informed and believes, and on that
 6 basis alleges, that the Plaintiff Class defined above is so numerous
 7 that joinder of all members would be impractical.
 8
- 9 b. **Common Questions Predominate:** Common questions of law and
 10 fact exist as to all members of the Plaintiff Class and those
 11 questions predominance over any questions or issues involving
 12 only individual class members. The principal issue is whether the
 13 Defendants' written communications to consumers, in the forms
 14 attached as Exhibit A violate 15 USC §1692e and 1692g.
 15
- 16 c. **Typicality:** The Plaintiff's claims are typical of the claims of the
 17 class members. The Plaintiffs and all members of the Plaintiff
 18 Class have claims arising out of the Defendants' common uniform
 19 course of conduct complained of herein.
 20
- 21 d. **Adequacy:** The Plaintiff will fairly and adequately protect the
 22 interests of the class members insofar as Plaintiff have no interests
 23 that are adverse to the absent class members. The Plaintiff is
 24 committed to vigorously litigating this matter. Plaintiff has also
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1 retained counsel experienced in handling consumer lawsuits,
2 complex legal issues, and class actions. Neither the Plaintiff nor
3 her counsel have any interests which might cause them not to
4 vigorously pursue the instant class action lawsuit.
5

6 e. **Superiority:** A class action is superior to the other available means
7 for the fair and efficient adjudication of this controversy because
8 individual joinder of all members would be impracticable. Class
9 action treatment will permit a large number of similarly situated
10 persons to prosecute their common claims in a single forum
11 efficiently and without unnecessary duplication of effort and
12 expense that individual actions would engender.
13
14
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16 17. Certification of a class under Rule 23(b)(3) of the Federal Rules of
17 Civil Procedure is also appropriate in that the questions of law and fact common
18 to members of the Plaintiff Class predominate over any questions affecting an
19 individual member, and a class action is superior to other available methods for
20 the fair and efficient adjudication of the controversy.
21
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23 18. Depending on the outcome of further investigation and discovery,
24 Plaintiff may, at the time of class certification motion, seek to certify a class(es)
25 only as to particular issues pursuant to Fed. R. Civ. P. 23(c)(4).
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FACTUAL ALLEGATIONS

19. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered above herein with the same force and effect as if the same were set forth at length herein.

20. Some time prior to October 25, 2019, an obligation was allegedly incurred to Salal Credit Union by Plaintiff.

21. The Salal Credit Union obligation arose out of transactions in which money, property, insurance or services which are the subject of the transactions were primarily for personal, family or household purposes.

22. The alleged Salal Credit Union obligation is a “debt” as defined by 15 U.S.C. §1692a(5).

23. Salal Credit Union is a “creditor” as defined by 15 U.S.C. §1692a(4).

24. Defendant FAI was contracted by Salal Credit Union to collect the alleged debt.

25. Defendants collect and attempt to collect debts incurred or alleged to have been incurred for personal, family or household purposes on behalf of creditors using the United States Postal Services, telephone and internet.

Violation I – October 25, 2019 Collection Letter

1 26. On or about October 25, 2019, Defendant FAI sent Plaintiff an initial
2 collection letter (the “Letter”) regarding the alleged debt currently owed. See
3 **Exhibit A.**
4

5 27. When a debt collector solicits payment from a consumer, it must,
6 within five days of an initial communication
7

8 (1) the amount of the debt;

9 (2) the name of the creditor to whom the debt is owed;

10 (3) a statement that unless the consumer, within thirty days after receipt of
11 the notice, disputes the validity of the debt, or any portion thereof, the debt
12 will be assumed to be valid by the debt collector;
13

14 (4) a statement that if the consumer notifies the debt collector in writing
15 within the thirty-day period that the debt, or any portion thereof, is disputed,
16 the debt collector will obtain verification of the debt or a copy of the
17 judgment against the consumer and a copy of such verification or judgment
18 will be mailed to the consumer by the debt collector; and
19

20 (5) a statement that, upon the consumer's written request within the thirty-
21 day period, the debt collector will provide the consumer with the name and
22 address of the original creditor, if different from the current creditor. 15
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24 U.S.C. § 1692g(a).
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1 28. The FDCPA further provides that "if the consumer notifies the debt
2 collector in writing within the thirty day period . . . that the debt, or any portion
3 thereof, is disputed . . . the debt collector shall cease collection . . . until the debt
4 collector obtains verification of the debt . . . and a copy of such verification is
5 mailed to the consumer by the debt collector." 15 U.S.C. § 1692g(b).
6
7

8 29. Although a collection letter may track the statutory language, "the
9 collector nevertheless violates the Act if it conveys that information in a
10 confusing or contradictory fashion so as to cloud the required message with
11 uncertainty." Russell v. EQUIFAX A.R.S., 74 F.3d 30, 35 (2d Cir. 1996) ("It is
12 not enough for a debt collection agency to simply include the proper debt
13 validation notice in a mailing to a consumer-- Congress intended that such
14 notice be clearly conveyed."). Put differently, a notice containing "language that
15 'overshadows or contradicts' other language informing a consumer of her
16 rights . . . violates the Act." Russell, 74 F.3d at 34.
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20 30. The letter states: We are a licensed collection agency and your
21 account with SALAL CREDIT UNION has been assigned to us for collection.
22 The above creditor has certified your balance and has authorized us to take
23 whatever remedies necessary to collect your balance of \$776.81. Information
24 about your account may be reported to credit bureaus. Late payments, missed
25 payments, or other defaults on your account may be reflected in your credit
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1 report. Your failure to resolve this problem with the above creditor has resulted
2 in your name being turned over to a licensed collection agency.”

3
4 31. This language completely overshadows the “G-Notice” by scaring
5 Plaintiff into making payment immediately to avoid negative credit reporting
6 instead of exercising her statutory right to dispute the debt as provided by the
7 FDCPA.
8

9 32. This language is threatening to the consumer and coerces payment from
10 the consumer by making threats during the initial thirty-day period.
11

12 33. Moreover, the letter states: “The above creditor has certified your
13 balance...” which implies that the balance has been certified and accurate.
14

15 34. This statement could easily confuse and deceive the least sophisticated
16 consumer to believe that there is no need to dispute the debt, because according
17 to the letter, the balance has been “certified.”
18

19 35. The Defendants have failed to provide the consumer with a statutorily
20 compliant initial communication letter.
21

22 36. Plaintiff has suffered an informational injury as she was not provided
23 with the information statutorily required to be included in the initial
24 communication letter from Defendant.
25

26 37. As a result, Plaintiff could not make an informed decision regarding his
27 rights and options involving the alleged debt.
28

1 38. As a result of Defendant's deceptive, misleading and unfair debt
2 collection practices, Plaintiff has been damaged.

3
4 **COUNT I**
5 **VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT 15**
6 **U.S.C. §1692e et seq.**

7 39. Plaintiff repeats, reiterates and incorporates the allegations contained in
8 paragraphs above herein with the same force and effect as if the same were set
9 forth at length herein.

10 40. Defendant's debt collection efforts attempted and/or directed towards
11 the Plaintiff violated various provisions of the FDCPA, including but not limited
12 to 15 U.S.C. § 1692e.

13 41. Pursuant to 15 U.S.C. §1692e, a debt collector may not use any false,
14 deceptive, or misleading representation or means in connection with the
15 collection of any debt.

16 42. Defendant violated said section by:

17 a. Making a false and misleading representation in violation of
18 §1692e(10).

19 43. By reason thereof, Defendant is liable to Plaintiff for judgment that
20 Defendant's conduct violated Section 1692e et seq. of the FDCPA, actual
21 damages, statutory damages, costs and attorneys' fees.

22 44.

COUNT II
VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES
ACT 15 U.S.C. §1692g *et seq.*

45. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs above herein with the same force and effect as if the same were set forth at length herein.

46. Defendant's debt collection efforts attempted and/or directed towards the Plaintiff violated various provisions of the FDCPA, including but not limited to 15 U.S.C. § 1692g.

47. Pursuant to 15 USC §1692g, a debt collector:

Within five days after the initial communication with a consumer in connection with the collection of any debt, a debt collector shall, unless the following information is contained in the initial communication or the consumer has paid the debt, send the consumer a written notice containing –

1. The amount of the debt;
2. The name of the creditor to whom the debt is owed;
3. A statement that unless the consumer, within thirty days after receipt of the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the debt-collector;

- 1 4. A statement that the consumer notifies the debt collector in
2 writing within thirty-day period that the debt, or any portion
3 thereof, is disputed, the debt collector will obtain
4 verification of the debt or a copy of a judgment against the
5 consumer and a copy of such verification or judgment will
6 be mailed to the consumer by the debt collector; and
7
8 5. A statement that, upon the consumer's written request within
9 the thirty-day period, the debt collector will provide the
10 consumer with the name and address of the original creditor,
11 if different from the current creditor.
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14

15 48. The Defendant violated 15 U.S.C. §1692g, by threatening negative
16 credit reporting, which overshadows the "g-notice" language and coerces the
17 consumer not to exert its rights under the FDCPA.
18

19 49. By reason thereof, Defendant is liable to Plaintiff for judgment that
20 Defendant's conduct violated Section 1692g et seq. of the FDCPA, actual
21 damages, statutory damages, costs and attorneys' fees.
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23

24 **DEMAND FOR TRIAL BY JURY**

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26 50. Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff
27 hereby requests a trial by jury on all issues so triable.
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PRAYER FOR RELIEF

WHEREFORE, Plaintiff Victoria Gehl, individually and on behalf of all others similarly situated, demands judgment from Defendant FAI as follows:

1. Declaring that this action is properly maintainable as a Class Action and certifying Plaintiff as Class representative, and Michael Brubaker, Esq. as Class Counsel;
2. Awarding Plaintiff and the Class statutory damages;
3. Awarding Plaintiff and the Class actual damages;
4. Awarding Plaintiff costs of this Action, including reasonable attorneys' fees and expenses;
5. Awarding pre-judgment interest and post-judgment interest; and
6. Awarding Plaintiff and the Class such other and further relief as this Court may deem just and proper.

DATED this 9th day of July, 2020.

Respectfully submitted,
By: /s Michael
Brubaker
Michael Brubaker,
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Brubaker Law Group
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